IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 59 OF 2005

MRS.DONNA WENDY MASCARENHAS,MARGAO GOA. ....Petitioner

Versus

MR.OLIVIERA ANTHONIO SALAZAR VAZ PEREIRA,BENAULIM ....Respondent

Shri J. P. Mulgaonkar, Advocate for the petitioner.

Coram:- R. M. LODHA, J.

Date:- 6th October, 2005

P.C.

Heard Mr. J.P. Mulgaonkar, learned Counsel for the petitioner. He fairly concedes that the application made on behalf of the petitioner for dismissal of the suit for restitution of conjugal rights was not proper. He submits that in the light of the suit for dissolution of the marriage having been filed by the wife, as per law the suit for restitution of the conjugal rights filed by the husband ought to have been kept in suspended animation until disposal of the suit for dissolution of marriage. He submits that liberty may be granted to the petitioner to make an appropriate application in that regard to the trial Court and the writ petition may be allowed to be withdrawn.

2. The submission of the learned Advocate for the petitioner appears to be fair and reasonable. The writ petition is allowed to be withdrawn with liberty to the petitioner to make an appropriate application under Article 1470 of the Portuguese Code of Civil Procedure. It is clarified that if such an application is made, the trial Court shall consider the same in accordance with law and pass an appropriate order after hearing both the parties.

3. With the aforesaid observation, the writ petition is allowed to be withdrawn with liberty as prayed.

R. M. LODHA, J.

ssm.